

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	09/453,340	CAIN ET AL.
	Examiner	Art Unit
	Robert W. Wilson	2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 6/15/05.
2.  The allowed claim(s) is/are 1-4, 7-11, 14-18, & 21 (Re# 1-15).
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date 1/29/03.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**

7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_

*Bob Phunkulh*  
**BOB PHUNKULH**  
**PRIMARY EXAMINER**

***Allowable Subject Matter***

1. The present invention is directed to a communication device in which a first protocol or upper layer protocol assigns a priority level of the messaged based upon a priority function invoked by the second protocol or lower layer protocol. The closest prior art is Ludwig (U.S. Patent No.: 6,697,352). Ludwig teaches a higher layer or upper layer or first protocol which already has a priority level and passes the priority level to the lower layer or second protocol. The second protocol or lower layer protocol encapsulates the first protocol or upper layer protocol packet in a packet including the priority level and sends the packet on.

The closest prior art Ludwig (U.S. Patent No.: 6,697,352) does not disclose, anticipate, or render obvious the following claim limitations:

“invoking the priority function by the second protocol in order to determine the priority level for the message; and forwarding the message along with an indication of the priority level for the message from the second protocol to the first protocol” as claimed in claim 1.

“a second protocol operably coupled or programmed to invoke the priority function in order to determine the priority level for the message, wherein the second protocol is operably coupled to forward the message to the first protocol along with an indication of the priority level for the message” as claimed in claims 8 & 15 respectively.

In Addition:

Claims 2-4 & 7 are allowed because they depend upon claim 1.

Claims 9-11 & 14 are allowed because they depend upon claim 8.

Claims 16-18 & 21 are allowed because they depend upon claim 15.

***Conclusion***

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075.

The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571/272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Robert W. Wilson*

Robert W Wilson  
Examiner  
Art Unit 2661

RWW  
7/8/05

*Bob A. Phunkulh*  
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